

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
GENERAL TIRE AND RUBBER
COMPANY,

Appellant,

v.

SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY,

Respondent.

PCHB Nos. 928 and 934

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

THIS MATTER, the appeal of two \$150 civil penalties for alleged violations of respondent's Regulation 1 and/or WAC 18-04-040(1)(b) on separate occasions having come on regularly for formal hearing on the 9th day of March 1976 in Vancouver, Washington, and appellant General Tire and Rubber Company appearing through its attorney, Robert L. Harris, and respondent Southwest Air Pollution Control Authority appearing through its attorney, James D. Ladley with David Akana, hearing examiner presiding, and the Board having considered the exhibits, records and files herein and having reviewed

1 the proposed Findings of Fact, Conclusions of Law and Order of the
2 presiding officer entered on the 10th day of March, 1976 and
3 served upon all parties herein by certified mail, return receipt
4 requested and twenty days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,
6 Conclusions and Order and the Board being fully advised in the
7 premises; now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
9 Findings of Fact, Conclusions of Law and Order dated the 10th day
10 of March, 1976, and incorporated by this reference herein and
11 attached hereto as Exhibit A, are adopted and hereby entered as
12 the Board's Final Findings of Fact, Conclusions of Law and Order
13 herein.

14 DONE at Lacey, Washington, this 6th day of April, 1976.

15 POLLUTION CONTROL HEARINGS BOARD

16 Chris Smith
17 CHRIS SMITH, Chairman

18 W. A. Gissberg
19 W. A. GISSBERG, Member
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FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

Nature of Case: Two \$150 civil penalties for alleged violations
of Section 4.02 of respondent's Regulation I and/or
WAC 18-04-040(1)(b) on separate occasions.

Formal Hearing: March 9, 1976.

Presiding Officer: David Akana, hearing examiner.

Court Reporter: Jennifer Rowland.

For Appellant: Robert L. Harris of Mason, Foley and Harris, attorneys.

For Respondent: James D. Ladley of Boettcher, LaLonde, Kleweno,
Lodge, Ladley, Witteman, Schreiber & Kelly, attorneys.

EXHIBIT A

FINDINGS OF FACT

1. On September 16, 1975 in Washougal, Washington, appellant caused an emission of an air contaminant from its tire buffer cyclone exhaust which exceeded 60 percent opacity for a period exceeding three consecutive minutes. During this time, the sky was overcast. Appellant did not controvert the evidence offered by respondent, but did not admit to the violation. For this emission, appellant was assessed a \$150 civil penalty on September 19, 1975.

2. On September 23, 1975 in Washougal, Washington, appellant caused an emission of an air contaminant from its tire buffer cyclone exhaust which appellant admits exceeded the standards set forth in Section 4.02 of Regulation 1 and/or WAC 18-04-040(1)(b). The excessive emission was the result of the particular type of tire being processed at the time and the operational procedures used. For this emission, appellant was assessed a \$150 civil penalty on September 24, 1975.

3. Pursuant to RCW 43.21B.260, respondent's Regulation 1 is noticed.

CONCLUSIONS OF LAW

1. On September 16 and 23, 1975 appellant caused or allowed the emission of an air contaminant for more than three minutes in any one hour which exceeded the 40 percent opacity limit in Section 4.02 of Regulation 1 and the 20 percent opacity limit in WAC 18-04-040(1)(b).

2. The two \$150 civil penalties were properly assessed for each violation and are reasonable in amount.

3. The action of respondent should be affirmed.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

ORDER

1. The \$150 civil penalty issued as a result of appellant's violation of Regulation 1 on September 16, 1975 should be and hereby is affirmed.

2. The \$150 civil penalty issued as a result of appellant's violation of Regulation 1 on September 23, 1975 should be and hereby is affirmed.

3. The payment of both civil penalties is hereby suspended upon condition that no similar violations occur for a period of six months from the date that this order becomes final.

DATED this 10th day of March, 1976.

POLLUTION CONTROL HEARINGS BOARD

David Akana

DAVID AKANA, Hearing Examiner

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER